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Atty. Docket No. RSW920000024US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Glenn Clement Aikens et al
Serial No.: 09/547,273
Filed: April 11, 2000
For: Method, System and Program Product for Managing Network Performance

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Phone: Fax No. 703-872-9306

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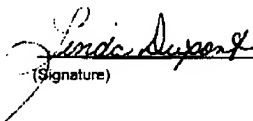
1. Response to Supplemental Notice of Non-Compliant Amendment

pages total 11 (including this cover sheet)

Date: July 13, 2004

Linda Dupont

(Name of person signing certification)


(Signature)

PATENT
IBM Docket No. RSW9-2000-0024US1

In the United States Patent and Trademark Office

Date: July 13, 2004
In re Application of: Glenn Clement Aikens et al
Filed: April 11, 2000
For: Method, System and Program Product for Managing Network Performance
Serial Number: 09/547,273
Art Unit: 2142
Examiner: Prieto, Beatriz

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Response to Supplemental Notice of Non-Compliant Amendment

Hon. Commissioner for Patents
P.O. Box 1450
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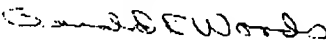
Sir:

This paper is a response to a supplemental Notice of Non-Compliant Amendment mailed July 8, 2004. A previously filed response to a Notice of Non-Compliant Amendment failed to correct errors in the numbering of the claims. This response includes:

- (1) A copy of the supplemental Notice of Non-Compliant Amendment; and
- (2) A corrected copy of Amendment to the Claims.

Applicants' files contain no indication of any prior request to renumber the claims. If a formal request is necessary, the examiner is authorized to renumber the claims as necessary

Respectfully Submitted,


Gerald R. Woods, Reg. No. 24,144
Attorney of Record

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09/547,273 (RSW9-2003-0024US1)

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P 4/12

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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8

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

This communication is in response to amendment filed 4/29/04. Notice of non-compliance amendment and explanation is attached.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
FALLS CHURCH, VA 22033-1450
www.uspto.gov

Paper No.

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on _____ is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72
 - ☐ B. Other _____
- ☐ 3. Amendments to the drawings: _____
- ☒ 4. Amendments to the claims:
- ☒ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier and as such, the individual status of each claim cannot be identified
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order
 - ☒ E. Other ex. affected by exception

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/propnotice/gfifcellver.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given **ONE MONTH** from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(e)), applicant is given a **TIME PERIOD** of **ONE MONTH** from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Legal Instruments Examiner (LIE)

Telephone No.

Rev. 10/03

Supplemental Notice of Non-Compliant Amendment (37 CFR 1.121)

1. This communication is in response to amendment filed 4/29/04.
2. Applicant is advised that claims as originally filed were **not properly numbered** in ascending numerical order (i.e. they are two set of claims 14 and 15 on page 19).
3. Claims as originally filed where **properly renumbered** leading to claims 1-19.
4. Thereby amendment filed 4/29/04, fails to list all the claims including claims 18-19 and their corresponding status identifier.
5. Correction is required.



B. Prieto
Patent Examiner
TC 2100